

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHAWN J. CRUZE,

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

Case No. C05-5744FDB
C06-5064FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION

The one-year limitation period for filing a petition for writ of habeas corpus began to run on his most recent criminal conviction on December 5, 2000, and the one-year period expired on or about December 6, 2001. Petitioner did not file his writ of habeas corpus challenging either of the two convictions until late in 2005, and the Magistrate Judge recommends dismissal of the petitions in the above cases, finding that Petitioner has presented no facts or mitigating circumstances to warrant any equitable tolling of the statute.

Petitioner files objections, arguing as he did before the Magistrate Judge that owing to his having been transferred repeatedly in 2001, 2002, 2004, and 2005, he did not have his legal materials available to him, and he also argues the incompetence of his counsel in handling his case.

While Petitioner may have been in transit on February 28 and March 5 of 2001, he was not

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1 transferred again until January 18, of 2002. Thus, having reviewed the record, Petitioner's
2 objections, and the Magistrate Judge's Report and Recommendation, the Court concludes that the
3 R&R must be adopted.

4 ACCORDINGLY, IT IS ORDERED:

5 1. The Court adopts the Report and Recommendation;
6 2. Petitioner's federal habeas petitions in the above cases are DISMISSED;
7 3. The Clerk is directed to send copies of this Order to Petitioner, Respondent and to
8 the Honorable J. Kelley Arnold.

9 DATED this 31st day of May, 2006.

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11 FRANKLIN D. BURGESS
12 UNITED STATES DISTRICT JUDGE
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